

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JOSEPH SCIASCIA and CARMINE
FIORILLO, As Trustees of the Special and
Superior Officers Benevolent Association
Welfare Fund., and JOSEPH SCIASCIA, as
President of the Special and Superior Officers
Benevolent Association,

DECISION AND ORDER

13-cv-0800 (ADS)(AKT)

Plaintiffs,

-against-

PRIME PROTECTIVE SERVICES, INC.,
PRIME PROTECTIVE, INC., PRIME
SECURITY & INVESTIGATIVE SERVICES,
LLC, PRIME SECURITY SERVICES, INC.,
and TERRY ENGLISH,

Defendants.

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APPEARANCES:

Archer, Byington, Glennon & Levine, LLP

Attorneys for the Plaintiffs

One Huntington Quadrangle

Suite 4C10

PO Box 9064

Melville, NY 11747

By: Paula A. Clarity, Of Counsel

NO APPEARANCE:

The Defendants

SPATT, District Judge.

On February 11, 2013, the Plaintiffs Joseph Sciascia and Carmine Fiorillo, As Trustees of
the Special and Superior Officers Benevolent Association Welfare Fund., and Sciascia, as
President of the Special and Superior Officers Benevolent Association, commenced this action

pursuant to Section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. §185, and Sections 515 and 502(a)(3) of the Employee Retirement Income Security Act of 1974. In essence, the Plaintiffs seek to recover alleged delinquent fringe contributions under a collective bargaining agreement entered into by the Defendant Prime Security Services, Inc. and a union named the Special and Superior Officers Benevolent Association. The Clerk of the Court having noted the default of the Defendants on June 25, 2013, and the Plaintiff having moved for a default judgment against the Defendants on July 31, 2013, the Court referred this matter to United States Magistrate Judge A. Kathleen Tomlinson for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On February 19, 2014, Judge Tomlinson issued a thorough report recommending that the Court enter a default judgment against the Defendants Prime Protective Services, Inc., Prime Protective, Inc., Prime Security & Investigative Services, LLC, Prime Security Services, Inc., and Terry English. Judge Tomlinson also recommended that the Plaintiffs be awarded, as against the Defendants jointly and severally, (1) \$33,485.00 for unpaid contributions; (2) \$2,689.71 in interest on unpaid contributions; (3) \$6,697.00 in liquidated damages; and (4) \$2,636.69 in attorneys' fees and costs. To date, there has been no objection to Judge Tomlinson's report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)

(citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson's Report and finds it be persuasive and without any legal or factual errors.

There being no objection to Judge Tomlinson's Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED, that Judge Tomlinson's Report and Recommendation is adopted in its entirety; and it is further

ORDERED, that a default judgment be entered against the Defendants. The Clerk of the Court shall enter judgment against the Defendants, jointly and severally, in the amount of (1) \$33,485.00 for unpaid contributions; (2) \$2,689.71 in interest on unpaid contributions; (3) \$6,697.00 in liquidated damages; and (4) \$2,636.69 in attorneys' fees and costs; and it is further

ORDERED, that the Clerk is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 11, 2014

Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge